

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 19215US02

***In the Application of:***

Mark F. Pittenger, et al.

***Serial No.:*** 10/690,435

***Filed:*** October 21, 2003

***For:*** Cardiac Muscle Regeneration  
Using Mesenchymal Stem Cells

***Examiner:*** Fereydoun G. Sajjadi

***Group Art Unit:*** 1633

***Confirmation No.:*** 3718

***Filed via Electronic Filing on  
February 5, 2008***

**AMENDMENTS TO BRIEF ON APPEAL**

Mail Stop: Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Dear Sirs:

This communication is being submitted in response to the Notification of Non-Compliant Appeal Brief mailed on January 29, 2008. This response is timely because it is filed within one month of the mailing date of the Notification.

Applicants hereby submit replacement sections to correct the sections identified as defective in the Notification. The sections to be replaced are **Section IV. STATUS OF AMENDMENTS**, found at page 7 of the Appeal Brief and **Section VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**, found at page 12 of the Appeal Brief. The replacement sections follow:

#### **IV. STATUS OF AMENDMENTS**

In Applicants' Reply filed on June 20, 2007, Applicants added claims 22-28, made additional remarks, and requested reconsideration of the rejections. Pursuant to the Advisory Action mailed on July 17, 2007, remarks and amendments contained in the Applicants' Reply were entered and the Request for Reconsideration was considered. However, the Advisory Action stated that Applicants' Reply did not place the instant application in condition for allowance.

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The principal grounds of rejection on appeal are:

(1) Whether claims 16 and 21 limit the independent claims upon which they depend.

(2) Whether claims 1, 2, 4-10, and 12-21 are indefinite under 35 U.S.C. § 112, second paragraph.

(3) Whether claims 12-21 are enabled under 35 U.S.C. § 112, first paragraph (enablement).

The groundless rejection of claims 22-28 is also appealed.

## CONCLUSION

Appellants respectfully request that the above amended sections replace Sections IV and VI of the Appeal Brief filed on January 8, 2008.

If there are any fees due in connection with the filing of this Amended Brief on Appeal, please charge the fees to the Deposit Account 13-0017. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and should also be charged to the Deposit Account (13-0017) indicated.

Respectfully Submitted,

February 5, 2008

/Troy A. Groetken/  
Troy A. Groetken  
Reg. No. 46,442  
Attorney for Appellants

MCANDREWS, HELD & MALLOY, LTD  
500 West Madison Street, 34<sup>th</sup> Floor  
Chicago, IL 60661  
Telephone No. (312) 775-8000  
Facsimile No.: (312) 775-8100